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CENTRAL FAX CENTERAppl. No.: 10/693,154
Reply to Office Action of dated May 16, 2006

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REMARKS/ARGUMENTS

The Office Action of May 16, 2006 rejected all of the pending claims of the above-identified patent application. Specifically, the Examiner rejected Claims 1, 4, 8-10, 11-12, and 14-15 as anticipated by Schwartz *et al.* The Examiner also rejected Claims 14 – 15 as obvious over the combination of Swenson *et al.* and Wilkerson and Claims 2-3, 13 and 16 as rendered obvious by Swenson *et al.*

The Applicant respectfully traverses each of the Examiner's prior art grounds for rejection and respectfully submits that the Examiner has not set forth a *prima facie* showing of either anticipation or obviousness. Therefore, each of the present rejections must be withdrawn.

Support for the Amendments

This response amends Claims 1, 4, 8 and 16. The response also adds new Claim 17. The Applicant respectfully submits that the amendments are well supported by the specification as originally filed.

The amendment to Claim 1 adds the limitation that the claimed chair includes "a rotation lock release member having a switch positioned on said armrest support near said armrest body." The Applicant respectfully submits that the specification, as originally filed, amply supports this limitation. For instance, Figures 11 and 12, and the corresponding discussion of these Figures in paragraphs 0140 through 0146, describes an embodiment of the armrest invention of the present application in which the rotation lock is activated from (*i.e.*, has a switch at) a position on said armrest support near said armrest body. In this instance, raising the forward edge of the armrest body releases the rotation lock. Thus, the Applicant respectfully submits that the amendment to Claim 1 is adequately supported by the specification as originally filed.

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The amendment to Claims 4 and 8 clarify the limitation that "said armrest body maintains an orientation substantially parallel to the seat of said chair" by expressly stating that this parallel state occurs substantially always. The Applicant respectfully submits that if one of ordinary skill, at the time of the earliest effective filing date to which the Applicant is entitled, read the above-identified application, such a person would have understood that the armrest body of the chair of Figure 1 maintains a substantially parallel orientation to the seat of the chair substantially always. Thus, the Applicant submits the amendments to Claims 4 and 8 are adequately supported.

The amendment to Claim 16 clarifies the limitation "raising the end of the armrest closest to a user's fingertips to an altitude greater than the altitude of the portion of said armrest to said user's elbow" by substituting the word "portion" for the word "end" and inserting the word closest. The Applicant respectfully submits that this amendment merely makes express that which one of ordinary skill would have previously understood from this limitation. Consequently, this limitation is adequately supported.

New Claim 17 is based on prior Claim 1, but specifies that the bracket to which the armrest support is attached is normally fixed. The Applicant respectfully submits that the specification, as originally filed, amply supports this limitation. For instance, Figures 1 and 2 of the present application, as originally filed, illustrates an embodiment of the present invention in which the bracket to which the armrest support is attached is fixed. Thus, the Applicant respectfully submits that New Claims 17 are adequately supported by the specification as originally filed.

In sum, the Applicant respectfully submits that each of the amendments are well supported by the application as originally filed.

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The Rejections alleging Anticipation

As noted above, in the May 16, 2006 Office Action, the Examiner rejected Claims 1, 4, 8-10, 11-12, and 14-15 as anticipated by Schwartz *et al.* The Examiner also rejected Claims 4-9 as anticipated by Swenson. For the followings reasons, the Applicant respectfully traverses the Examiner's rejections.

The Schwartz *et al.* Reference

The Applicant respectfully submits that the Schwartz *et al.* reference does not teach the subject matter of Claims 1, 4, 8-10, 11-12, and 14-15.

Schwartz *et al.* does not disclose the subject matter of Claim 1

The Applicant respectfully submits that Schwartz *et al.* does not disclose the subject matter of Claim 1. In particular, the Applicant notes that the "rotation lock (59)" of Schwartz is released by turning a knob in the back of the chair. In marked contract, in the subject matter of Claim 1, the rotation lock release is activated from a position on said armrest support near said armrest body. Indeed, while Schwartz does disclose knobs 52 and 53 on the armrest bodies in Schwartz Fig. 13A, these knobs prevent and permit the armrest bodies (pads) to telescopically move in and out. Nothing in Schwartz teaches or suggests that either knob 52 or knob 53 release the rotation lock for adjusting the vertical position of the armrest. Thus, the Examiner has not made a *prima facie* showing that the subject matter of Claim 1, as amended, is described by the Schwartz *et al.* reference.

**Schwartz *et al.* does not disclose the
subject matter of Claims 4, 8-10, 11-12, and 14-15**

The Applicant respectfully submits that Schwartz *et al.* does not disclose the subject matter of Claims 4, 8-10, 11-12, and 14-15. Specifically, the Applicant notes that these claims,

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unlike some of the other pending claims, require two links (arms or bars) connecting the bracket mounted on the support for the back to the support for each armrest body. This structure is illustrated, among places, in Figure 11. Specifically, support for the back 113 contains the first bracket structure. Bars 625 and 630 each connect to the support for the back 113 bracket. Bars 625 and 630, at their other ends (615 and 620) connect the armrest body 610. In marked contrast to the four bar (counting the brackets at either end as the third and fourth bars) system of this embodiment of the present invention, the Schwartz patent has a single bar connecting the "bracket on the support for the back" to the "armrest body". For this reason alone, Schwartz neither teaches nor suggests the subject matter of Claims 4, 8-10, 11-12, and 14-15.

Nonetheless, the Applicant acknowledges that the Schwartz disclosure shows the use of two single bars, one on each side. However, if the bars connecting the "bracket on the support for the back" to the "armrest body" on both the left and the right side of the user are counted, then Schwartz has two, but the claimed subject matter has 4. Again, Schwartz neither teaches nor suggests the subject matter of Claims 4, 8-10, 11-12, and 14-15.

In view of the above-noted differences between Schwartz's disclosure and the claimed subject matter, the Applicant respectfully submits that the Examiner has not made a *prima facie* showing of anticipation. Rather, the cited reference discloses something completely different from that which is claimed by the present application. Indeed, because of this difference alone, the Examiner has not made a *prima facie* showing of anticipation. Consequently, the Applicant respectfully submits that the present rejection must be withdrawn.

The Swenson et al. Reference

The Applicant respectfully submits that the Schwartz *et al.* reference does not teach the subject matter of Claims 4-9.

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Swenson et al. does not disclose the subject matter of Claim 4-9

The Applicant respectfully submits that Swenson *et al.* does not disclose the subject matter of Claims 4-9. To simplify the analysis, the Applicant will focus on independent claims 4 and 8. Based on the following showing that Swenson *et al.* does not disclose the subject matter of Claims 4 and 8, the Applicant respectfully submits that Swenson *et al.* do not disclose the subject matter of claims that depend from these claims.

The Applicant notes that the Examiner acknowledges that the chair described by Swenson *et al.* does not maintain the armrest in "an orientation substantially parallel to a seat when it is being pivoted to a non-use position." Office Action at page 2. Additionally, the Applicant respectfully submits that Swenson *et al.* expressly discloses that in addition to when their armrest is being pivoted to a non-use position, their armrest also maintains a position not parallel to the seat when it is in the non-use position. See Figure 2 and Col. 1, line 67 – col. 2, line 3 ("swung upwardly to the rear into a fully stored position or can be swung forward out of the operator's way when the elongated support links are fully depressed."). Indeed, Swenson *et al.* state that their armrest can move in a considerable arc. *E.g.*, col. 3, lines 3-7 ("arm rest 30 of each arm rest assembly 22, 24 is rotatable in a vertical plane in the direction of arrow 31 (FIG. 2) and is also shiftable upwardly and downwardly in the vertical plane in the direction of the arrows 32 (FIG. 2)").

Thus, contrary to the Examiner's assertions, at most, the chair of Swenson *et al.* is occasionally substantially parallel to the seat. In other words, Swenson *et al.* does not disclose the subject matter of Claims 4 and 8. Therefore, the Examiner has not set forth a *prima facie* showing that the subject matter of these claims was anticipated by Swenson *et al.* As a result, the present rejection must be withdrawn.

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The Rejections alleging Obviousness

The Examiner rejected Claims 14 – 15 as unpatentable (as obvious) over Swenson *et al.* in view of Wilkerson. The Examiner also rejected Claims 2-3, 13 and 16 as unpatentable (as obvious) over Schwartz *et al.* The Applicant respectfully traverses the Examiner's position, and submits that the substantial differences between the claimed method and the devices disclosed by cited art establishes that the cited art does not render the claimed subject matter obvious.

Claims 14 - 15

The Examiner rejected Claims 14 and 15 as obvious over Swenson *et al.* in view of Wilkerson. According to the Examiner, Swenson *et al.* "shows all of the teachings of the claimed invention except the use of a pedestal with a plurality of arms. Wilkerson shows the conventional use of a pedestal with a plurality of legs. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pedestal of Swenson *et al.*, with the plurality of arms, as taught by Wilkerson in order to provide additional stability to the chair." Office Communication at 4-5. The Applicant respectfully traverses the Examiner's rejection.

The Applicant notes that one of ordinary skill would not anticipate that adding a pedestal with a plurality of arm would add to the stability of the chair of Swenson *et al.* Instead, the Applicant respectfully submits that one of ordinary skill in the art, at the time the invention was made, would have anticipated that by removing the chair and pedestal of Swenson *et al.* from its mounting to the floor of a vehicle (*e.g.*, Fig. 1) and putting it on a plurality of arms, whether the plurality of arms are those of Wilkerson or any other plurality of arms, would reduce the stability of a chair. More particularly, the Applicant notes that many children have toppled chairs on

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pedestals having a plurality of arms by rocking the chair, but very few people can topple a chair mounted to the floor of a "tractor, construction machine, or the like." (col. 2, l. 51 – 53).

In other words, the Examiner has not provided any motivation to modify the chair of Swenson *et al.* to arrive at the claimed subject matter. For this reason alone, the present rejection must be withdrawn.

Claims 2-3, 13 and 16

The Examiner alleges that the Schwartz *et al.* reference makes the method steps of Claims 2-3, 13 and 16 obvious. Indeed, the Examiner alleges that the claimed method steps would have invariable occurred if one were to use the chair disclosed in Schwartz *et al.* The Applicant respectfully traverses the Examiner's position and submits that the Examiner has not set forth a *prima facie* showing of obviousness.

Each of the independent claims in this group (*i.e.*, Claims 2, 13 and 16) call for, in the language of Claim 16, "raising the end of the armrest closest to a user's fingertips to an altitude greater than the altitude of the end of said armrest closest to said user's elbow; repositioning said armrest; and releasing said distal end in a manner effective to return said distal end to an altitude substantially the same as said medial end of said armrest."

If this method were tried on the chair of Schwartz *et al.*, the method would fail and thus Schwartz *et al.* teaches away from the subject matter claimed by Claims 2-3, 13 and 16. Specifically, before one can "raise the end of the armrest closest to a user's fingertips" in the Schwartz *et al.* chair, the use must get out of the chair, go to the back of the chair and loosen knobs 59. If knobs 59 are fully loosened, then one of ordinary skill would anticipate that armrest bars 56 and 57 would rotate into a fully vertical position with "the end of the armrest closest to a user's fingertips", *i.e.*, pads 52 and 53 below the seat of the chair. Now that the ends of the

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armrest closest to the user's fingertips are pointing downward, the user can return to the chair to try to reposition the armrests and raise these ends to the desired new position (which can be below the position of the armrest before the release of knobs 59. In such a case, the ends of the armrest closest to the user's fingertips never attain an altitude greater than the altitude of the portion of the armrest nearest to the user's elbows. Moreover, one of ordinary skill would anticipate that lowering occurs about 50% of the time the chair arms are repositioned.) When the user now releases the armrest from this repositioned placement, because knobs 59 were released, the armrest returns to the substantially vertical position with pads 52 and 53 again below the seat.

Indeed, the only practical way of repositioning the armrests of the Schwartz *et al.* chair is for the user to get out of the chair, go behind the chair to loosen knobs 59, to reposition the armrests while standing behind the chair, and to then retighten knobs 59. Moreover, the user will need to reposition the armrests of the chair of Schwartz *et al.* one at a time.

In marked contrast to the cumbersome process required to reposition the armrests of the Schwartz *et al.* chair, the user of the chair whose operation is described in claims 2, 13 and 16 can sit in the chair and without getting up, readjust one armrest, the other armrest, or both at the same time. Each action the user takes is in front of the user while seated in the chair.

In other words, the Schwartz *et al.* reference neither teaches nor suggests the claimed subject matter. Indeed, at best, the readjustment of the armrests of the chair described by Schwartz *et al.* only sometimes follows the claimed method. However, the Applicant submits that the claimed method is never practiced when the armrests of the chair of Schwartz *et al.* are repositioned. Thus, the Examiner has not made a *prima facie* showing that the claimed method is invariable inherently anticipated by the use of the chair of Schwartz *et al.* Consequently, the present rejection must be withdrawn.

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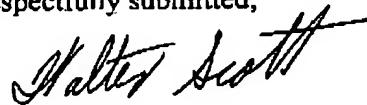
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CONCLUSION

The Applicant petitions 37 CFR § 1.136(a) for an extension of time to respond to the Office Communication of May 16, 2006. Any fee required by this communication (including fees for addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

In view of the present amendments and remarks, the Applicant respectfully submits that the application is now in condition for allowance and respectfully solicits the same at an early date. Nonetheless, if the Examiner has any questions, he is encouraged to call the undersigned at (212) 210-9518.

Respectfully submitted,

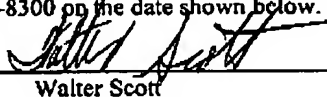


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September 22, 2006
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